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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

INVENTOR: David W. Herbage

ATTY DOC#: A310429.2US

SERIAL No.: 10/763,789

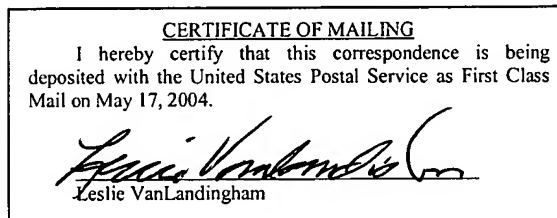
ART UNIT: 3641

CONFIRMATION No.: N/A

EXAMINER: Not yet assigned.

FILING DATE: 1/23/2004

TITLE: "Stacked Pellet Flare Assembly and
Methods of Making and Using the
Same"



Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: Licensing and Review

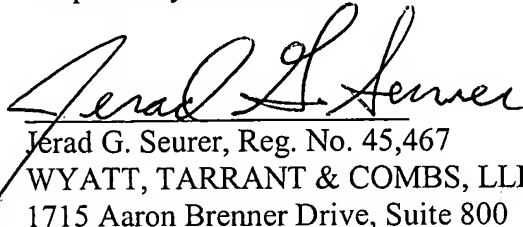
DECLARATION UNDER 37 CFR 1.68

Dear Commissioner:

This following Declaration of David W. Herbage is being filed in reply to correspondence mailed by the Licensing and Review Department of the U.S. Patent and Trademark Office on 4/29/2004. Although no fee is believed to be due for entry of this Declaration, please charge any deficiency or credit any overpayment associated with this Declaration to Deposit Account #502346.

Should the Office have any questions or concerns regarding the following Declaration, the Office is invited to contact the undersigned at its convenience.

Respectfully submitted,


Jerad G. Seurer, Reg. No. 45,467
WYATT, TARRANT & COMBS, LLP
1715 Aaron Brenner Drive, Suite 800
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Date: May 17, 2004

DECLARATION UNDER 37 CFR 1.68

I, David W. Herbage, a citizen of the United States and resident of Jackson, Tennessee declare as follows:

That I made and conceived the invention described and claimed in patent application Serial Number 10/763,789 filed in the United States of Patent and Trademark Office on January 23, 2004 entitled "Stacked Pellet Flare Assembly and Methods of Making and Using the Same."

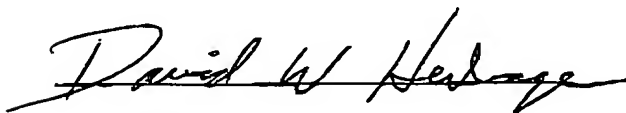
That I made and conceived this invention while employed by Kilgore Flares Company, LLC. That the invention is related to the work I am employed to perform and was made within the scope of my employment duties. That the invention was made during working hours and with the use of facilities, equipment, materials, funds, information and services of Kilgore Flares Company, LLC.

That to the best of my knowledge and belief:

The invention was not made or conceived in the course of, or in connection with, or under the terms of any contract, subcontract or arrangement entered into with or for the benefit of the United States Atomic Energy Commission or its successors, Energy Research and Development Administration, or the Department of Energy.

The invention was not made (conceived or first actually reduced to practice) under nor is there any relationship of the invention to the performance of any work under any contract of the National Aeronautics and Space Administration.

The undersigned inventor declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



DAVID W. HERBAGE, Inventor
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Date: May 13, 2004